

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: **2364 & 2365/CHNY/2024**
निर्धारण वर्ष/Assessment Year: 2015-16

SKT Nursery & Primary School,
No.74/2 & 74/3, New 1/3,
Ettiyamman Koil Street,
Thottapalayam,
Vellore - 632 004.

The Income Tax Officer,
Vs. Ward-1,
Vellore.

PAN: ABSFS 2563B

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. B. Agnius Jennifer, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri Shiva Srinivas, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 20.11.2024
घोषणा की तारीख/Date of Pronouncement : 20.11.2024

आदेश / O R D E R

PER GEORGE GEORGE K, VICE PRESIDENT:

These appeals at the instance of the assessee are directed against the two different orders of CIT(A)'s both dated 29.07.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2015-16.

2. At the outset, we notice that the CIT(A) has dismissed the appeals *in limine* without condoning the delay of 143 days and 64 days in filing the appeals before him. The Id.AR submitted that the assessee could not present the condonation application at the time of filing the appeal before the CIT(A). The CIT(A) without giving notice, had rejected the appeals *in limine*. It was submitted by the Id.AR that before dismissing the appeals *in limine* on account of delay in filing the appeals, assessee ought to have been provided with defect notice stating that condonation petitions has not filed before the First Appellate Authority.

3. The Id.DR was duly heard.

4. We have heard rival submission and perused the material on record. The appeals filed by the assessee have been dismissed by the CIT(A) *in limine* without condoning the delay of 143 days & 64 days respectively. Admittedly, the assessee had not filed the condonation petition. The CIT(A) without issuing defect notice's to the assessee had dismissed the appeals of the assessee. The CIT(A) ought to have issued defect notice bringing to the notice of the assessee concerned that appeals filed before him are not accompanied with condonation application. In the interest of justice

and equity, we are of the view that assessee should be provided with an opportunity to explain the delay before the CIT(A). Accordingly, the appeals are restored to the files of the CIT(A). The CIT(A) is directed to afford a reasonable opportunity of hearing to the assessee before a decision is taken on the condonation applications. In the event, CIT(A) is satisfied with the reasons given by the assessee for condoning the delay before him, necessarily he needs to adjudicate the issue's on merits. It is ordered accordingly.

5. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 20th November, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 20th November, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT